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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE A.J. SADASHIVA

WRIT PETITION No. 3738/1995

BETWEEN:

Sri.Narasappa s/o Hanumantha
Yelwar, aged 45 yrs., Occ:
agriculturist, r/o Rabbankal
Village, now r/a Konapur Pet,
Manvi, Tq: Manvi, Dist. Raichur,
since deceased by his L.Rs:-

a) Smt.Tiramma w/o Late Narasappa
Yelwar, age: 40 yrs., Occ: Agril.,
& Household work, r/o Konapur Pet,
Tq: Manvi, Dist. Raichur.

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(Amended vide
Court Order
dt. 16.4.1998)

b) Narasamma d/o Late Narasappa,
Yelwar, w/o Mahadevappa, major,
Occ: Agril., & Household work,
r/o Konapur Pet, Tq: Manvi, Dist.
Raichur.

.. Petitioners

(By Sri I.G.Gachchinamath, Adv.,)

AND:

1. The Land Acquisition Officer
& Asst. Commissioner, Raichur
Tq., Dist. Raichur.
2. Smt.Yellamma d/o not known,
aged: major, Occ: Household,
r/o Konapurpet, Manvi, Tq: Manvi,
Dist. Raichur.

.. Respondents

(By Sri K.H.Jagadish, GA, for R1)

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This Writ Petition filed under Articles 226 and 227 of the Constitution of India, praying to quash the endorsement dated 28-1-95 vide Annex-E passed by the R1 and etc.,

This Writ Petition coming on for hearing this day, the Court made the following :-

O R D E R

The petitioner states that his grandfather- Hanumanthappa Yelawar was the original owner of Sy.No.5/2/B1 measuring 6 acres 14 guntas situated in Rabbankal Village, Manvi Taluk; His grandfather had only two daughters by name Sheshamma and Gangamma; Sheshamma died issueless whereas he is the only son of Gangamma and thus he succeeded to the estate of his grandfather.

2. The petitioner further contends that the second respondent has no right, title and interest of whatsoever nature in the aforesaid lands; Even then it was notified in her name for acquisition as the khatha in the revenue records stood in her name; The mutation entry was called in question before the Asst. Commissioner in an appeal u/s 136(2) of the Karnataka Land Revenue Act; The Asst.Commissioner passed an order in his favour and the parties were directed

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to go before the Civil Court ^{Get their rights} to ~~adjudicated their~~
~~right and title~~. In the meanwhile, as the lands
 in question came to be acquired, the petitioner
 filed an application before the Land Acquisition
 Officer-first respondent herein- to make a reference
 to the Civil Court u/s 30 of the Land Acquisition
 Act, 1894 to determine the right, title and interest
 of the contesting parties to receive the compensation.
 The first respondent rejected his application by
 endorsement dated January 28, 1995 as per Annexure-E.
 Having been aggrieved by the said endorsement, the
 petitioner has filed this petition.

3. It is well established that no Revenue Court has jurisdiction to decide title to the property. Where there is a dispute as to the right of the second respondent to receive compensation and objections are raised before the Land Acquisition Officer, it is incumbent on the Land Acquisition Officer to refer the dispute to a Civil Court for adjudication u/s 30 of the Act. Section 30 of the Act reads as follows:-

"30. Dispute as to apportionment:-

When the amount of compensation has

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been settled u/s 11, if any dispute arises as to the apportionment of the same or any part thereof or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court."

4. In view of section 30, it is clear that the impugned endorsement is unsustainable as the first respondent took upon himself to decide the right of the petitioner even though disputes are pending before the revenue authorities between the petitioner and the second respondent.

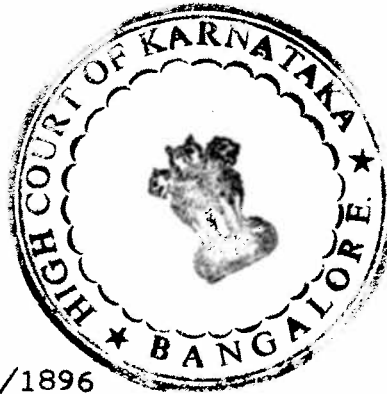
5. In the result, this petition is allowed. The endorsement dated January 28, 1995 issued by the first respondent in No.LAQ/GEN/31/91-92/1406 as per Annexure-E is hereby quashed. The first respondent is directed to refer the dispute to the Civil Court to decide as to who is entitled to receive the compensation in respect of the land in question.

6. In the circumstances of the case, there is no order as to costs.

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7. Sri.K.H.Jagadish, the learned HCGA, is permitted to file memo of appearance within four weeks.



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Sd/-
JUDGE